

REMARKS/ARGUMENTS

Claims 1-24 are pending. No claims have been amended in this response.

Reconsideration is respectfully requested in view of the following information.

The Rejections Based on U.S. Patent No. 6,728,792 to Wagner Are Inapplicable

Each of the pending claims is rejected under the Wagner '792 Patent as allegedly either anticipated or obvious. That reference is alleged by the Office Action to be a 102(b) reference. That is incorrect. The Wagner '792 Patent was issued after the pending application was filed and thus could only qualify under section 102(e)/102(a). As a result, Applicants have a right to establish a date of earlier invention prior to the effective filing date of the Wagner '792 Patent.

On September 15, 2005, Applicants submitted a Declaration to establish conception on May 25, 1998 coupled with diligence to an actual reduction to practice in June of 2000 - more than one year prior to the effective filing date of the Wagner '792 Patent. The PTO considered that Declaration but determined that it was "ineffective to overcome the Wagner '792 reference." The Office alleged that the evidence submitted was "insufficient to establish diligence from a date prior to the date of reduction to practice of the '792 reference to either a constructive reduction to practice or an actual reduction to practice" and asserted that "no evidence has been presented...through the period to the filing of the application." While Applicants disagree, in an effort to expedite prosecution, a new Declaration is submitted with this response.

The enclosed Declaration, which is signed by all of the inventors, establishes conception on May 25, 1998 coupled with evidence of diligence to an actual reduction to practice in June of 2000 - more than one year prior to the effective filing date of the Wagner '792 Patent. Accordingly, all rejections based on the Wagner '792 Patent are inapplicable.

CONCLUSION

Since the cited references, taken either singly or in combination, fail to teach or suggest the combinations set forth in the pending claims, and further fail to provide any motivation or suggestion of the desirability of modifying the structures or methods to arrive at the claimed combinations, Applicants submit that the pending claims are allowable over the cited references. Accordingly, Applicants respectfully request that the Examiner withdraw his rejections, allow the pending claims and pass the application to issue.

If the Examiner believes that a telephone conference or interview would advance prosecution of this application in any manner, the undersigned stands ready to conduct such a conference at the convenience of the Examiner.

If there are any fees due under 37 C.F.R. §1.116 or §1.117 which are not enclosed herewith, including any fees required for extension of time under 37 C.F.R. §1.136, please charge such fees to our Deposit Account No. 50-0206.

Respectfully submitted,

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